



ATTENTION

Probate cases on this calendar are currently under review by the probate examiners. Review of some probate cases may not be completed and therefore have not been posted.

If your probate case has not been posted please check back again later.

Thank you for your patience.

6A Stephen & Debbrah Winter Revocable Trust 2/16/94 Case No. 13CEPR00564
Atty Pape, Jeffrey B. (for Dennis Freeman – Successor Trustee/Petitioner)
Petition to Determine Title to and Require Transfer of Property to Trust [Prob. C.
850(a)(2)(3), 855, 17200(b)(6)]

Stephan DOD: 08/09/05		DENNIS FREEMAN , successor trustee, is Petitioner. Petitioner states: 1. Stephan F. Winter and Debbra L. Winter ("Settlers") executed the Stephan F. Winter and Debbra L. Winter Revocable Trust (the "Trust") on 02/16/94 in their capacity as Settlers and initial Trustees. The Trust was amended on 09/14/02. 2. Petitioner is the currently acting successor trustee of the Trust. 3. This petition concerns the ownership of the original Trust documents which Christopher Lull ("Respondent") or his agents have taken possession of and refused to deliver to the trustee. 4. The Settlor's maintained the original trust documents in a binder. Shortly before her death, Debbra delivered the binder to real estate agent Michele Lane in connection with a real estate transaction. The real estate agent had possession of the binder when Debbra died and maintained possession of it, refusing to deliver it to anyone without a court order. Thereafter, Respondent's attorney, Sue Campbell, represented to Michele Lane that the family agreed that it was ok that Ms. Lane release the binder to Respondent in care of attorney Sue Campbell. 5. This was not acceptable to Petitioner because (1) Petitioner was the trustee and not respondent, and (2) Respondent, Debbra's son, had been intentionally omitted from the Trust due to a long standing estranged relationship. 6. Petitioner has demanded the release of the trust binder from Respondent's former attorney, Sue Campbell; however, initially Sue Campbell's assistant professed no knowledge of a binder being picked up by her office and later Sue Campbell professed no knowledge of a binder being picked up from Michele Lane. Petitioner's demands that Respondent deliver the binder to Petitioner's attorney have been ignored. Petitioner prays for an Order: 1. Declaring that Petitioner is the sole owner of the original trust documents and that Respondent has no interest in the original trust documents. 2. Directing Respondent to immediately deliver possession to Petitioner of any and all trust documents including but not limited to the original Trust, original Trust amendment, and the estate planning binder. Continued on Page 2	NEEDS/PROBLEMS/COMMENTS: Note re pending matters: A: Ptn to Determine Title To and Require Transfer of Property to Trust - See Examiner Notes, Research Attorney Memo Re Notice of Motion and Motion for Judgment on Pleadings (Page D) B: Ptn to Determine Title To and Require Transfer of Property to Trust re Bank Account - See Research Attorney Memo Re Notice of Motion and Motion for Judgment on Pleadings (Page D) C: OSC Re Failure to Appear (Christopher Lull) - Continued hearing on OSC D: Notice of Motion and Motion for Judgment on the Pleadings - See Research Attorney Memo Re Notice of Motion and Motion for Judgment on Pleadings E: Petition to Determine Title To; Require Transfer To and Impose Constructive Trust Over Property - See Examiner Notes at Page E. NEW PETITION: Petition to Compel Christopher Lull to Redress Breach of Trust by Payment of Money or Otherwise and for Double Damages, set for 1-21-14 NEW PETITION: Christopher Lull filed Petition to Determine Validity of Purported Trust, for Order Determining Interest in Trust Property and for Reformation, set for hearing 1-28-14. NEW PETITION: Dennis Freeman filed Notice of Motion for an Order Compelling Responses to Special Interrogatories and Demand for Identification and Production of Documents, set for hearing 1-28-14. NEW PETITION: Christopher Lull filed Notice of Motion and Motion for Order Quashing Deposition Subpoena for Production of Business Records Issued to Placer Title Company, set for hearing 02/24/14 <u>The Court may wish to continue all matters to meet up at 1-28-14 or 02/24/14 and set for trial together.</u>	
Debbra DOD: 05/13/13				
Cont. from 081213, 102113, 112013, 120913				
Aff.Sub.Wit.				
✓ Verified				
Inventory				
PTC				
Not.Cred.				
✓ Notice of Hrg				
✓ Aff.Mail	w/			
Aff.Pub.				
Sp.Ntc.				
Pers.Serv.				
Conf. Screen				
Letters				
Duties/Supp				
Objections				
Video Receipt				
CI Report				
9202				
Order	x			
Aff. Posting				
Status Rpt				
UCCJEA				
Citation				
FTB Notice				

Objection filed 08/07/13 by Christopher Lull, Respondent, states:

1. Petitioner does not have standing to bring this Petition. Petitioner is not the trustee because the amendment naming him as trustee was revoked. Morgan Quail witnessed the destruction of the amendment (see *Declaration of Morgan Quail*). Without the amendment, Petitioner is not the trustee or a beneficiary of the Trust and has no vested interest in the Trust.
2. Petitioner is not a relative or heir of Debbra L. Winter.
3. Michele Lane, the real estate agent described in the Petition, was in possession of the original estate planning binder at the time of Debbra Winter's death. Ms. Lane turned over the binder to Respondent because she found his name in the estate documents, and could not locate Petitioner's name in the binder. Because Ms. Lane could not find Petitioner's name in the documents and didn't know who he was, she refused to turn the binder over to him. Respondent's attorney has spoken to Ms. Lane and anticipates that she will be a witness in this matter. Ms. Lane stated to Respondent's attorney that Petitioner admitted to her that he never even met Debbra Winter. This information supports the fact that the amendment was destroyed and not in the original estate planning binder.
4. In the absence of the original, there is a legal presumption that the document was revoked. Additionally, pursuant to Probate Code § 6120(b), we have an act of destruction consistent with the intent to revoke. This presumption cannot be overcome based on the Declaration of Morgan Quail and the expected testimony of Michele Lane.
5. Respondent, Christopher Lull, is the successor trustee of the Trust dated 07/16/94 and the primary beneficiary. He had every right to withdraw the money from Bank of America, as Trustee.

Objector prays for an Order:

1. Denying the Petition to Determine Title to and Require Transfer of Property to Trust Regarding Bank Account; and
2. Denying the Petition to Determine Title to and Require Transfer of Property to Trust.

Declaration of Morgan Quail in Support of Objection filed 08/07/13 states:

1. He is Debbra Winter's nephew and probably one of her closest family members. Debbra felt like a bit of an outsider in their family and felt left out. Declarant always tried to include her in his life events and she always seemed grateful to be included.
2. Their family has a lot of drama. Declarant states that he has tried to stay out of it and remain neutral. He believes that this is why Debbra confided in him and spoke to him about things she might not talk about with others.
3. Approximately 2 years ago on Father's Day, Debbra pulled Declarant aside and asked to talk to him. During their conversation, she removed a document titled amendment to trust from her purse and proceeded to tear it up in front of him. She stated that she wanted to keep her money in the family. Declarant also believes she was having conversations with her sister Catherine and father Stanton about this issue as well.
4. At Christmastime later that year, Declarant received a card from Debbra thanking him for the talk on Father's Day.

Joint Status Report filed 12/18/13 provides an outline/summary of the petitions filed in this matter.

**Petition to Determine Title to and Require Transfer of Property to Trust Regarding
Bank Account [Prob. C. 850(a)(2)(3), 855, 17200(b)(6)]**

Stephan DOD: 08/09/05	DENNIS FREEMAN , successor trustee, is Petitioner.	NEEDS/PROBLEMS/ COMMENTS:					
Debbra DOD: 05/13/13	Petitioner states:	Cont. from 081213, 102113, 112013, 120913					
	7. Stephan F. Winter and Debbra L. Winter ("Settlers") executed the Stephan F. Winter and Debbra L. Winter Revocable Trust (the "Trust") on 02/16/94 in their capacity as Settlers and initial Trustees. The Trust was amended on 09/14/02.						
	8. Petitioner is the currently acting successor trustee of the Trust.						
Cont. from 081213, 102113, 112013, 120913	9. This petition concerns the ownership of Bank of America account no. xxxx xxxx 3919 with a balance of over \$565,000 which was an asset of the Trust.						
<input type="checkbox"/> Aff.Sub.Wit.	10. Petitioner is informed and believes that Respondent, Christopher Lull, presented Bank of America on or about June 26, 2013 the original 02/16/94 Trust without including the 09/14/02 amendment and wrongfully obtained the balance of the Bank of America Account.						
<input checked="" type="checkbox"/> Verified							
<input type="checkbox"/> Inventory							
<input type="checkbox"/> PTC							
<input type="checkbox"/> Not.Cred.							
<input checked="" type="checkbox"/> Notice of Hrg							
<input checked="" type="checkbox"/> Aff.Mail w/							
<input type="checkbox"/> Aff.Pub.							
<input type="checkbox"/> Sp.Ntc.							
<input type="checkbox"/> Pers.Serv.							
<input type="checkbox"/> Conf. Screen	Petitioner prays for an Order:						
<input type="checkbox"/> Letters	1. Declaring that Petitioner is the sole owner of the funds in Bank of America account no. xxxx xxxx 3919 and the sums wrongfully removed from said account and that Respondent has no interest in the account or the balance of the account;						
<input type="checkbox"/> Duties/Supp	2. Directing Respondent to immediately deliver the amounts removed from the account to Petitioner;						
<input type="checkbox"/> Objections	3. Directing Respondent to pay Petitioner's attorney's fees and costs; and						
<input type="checkbox"/> Video Receipt	4. Awarding Petitioner with exemplary damages against Respondent according to proof.						
<input type="checkbox"/> CI Report							
<input type="checkbox"/> 9202							
<input checked="" type="checkbox"/> Order							
<input type="checkbox"/> Aff. Posting							
<input type="checkbox"/> Status Rpt							
<input type="checkbox"/> UCCJEA							
<input type="checkbox"/> Citation							
<input type="checkbox"/> FTB Notice							
Continued on Page 2		<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td>Reviewed by: JF</td> </tr> <tr> <td>Reviewed on: 01/02/14</td> </tr> <tr> <td>Updates:</td> </tr> <tr> <td>Recommendation:</td> </tr> <tr> <td>File 6B – Winter</td> </tr> </table>	Reviewed by: JF	Reviewed on: 01/02/14	Updates:	Recommendation:	File 6B – Winter
Reviewed by: JF							
Reviewed on: 01/02/14							
Updates:							
Recommendation:							
File 6B – Winter							

Objection filed 08/07/13 by Christopher Lull, Respondent, states:

6. Petitioner does not have standing to bring this Petition. Petitioner is not the trustee because the amendment naming him as trustee was revoked. Morgan Quail witnessed the destruction of the amendment (see *Declaration of Morgan Quail*). Without the amendment, Petitioner is not the trustee or a beneficiary of the Trust and has no vested interest in the Trust.
7. Petitioner is not a relative or heir of Debbra L. Winter.
8. Michele Lane, the real estate agent described in the Petition, was in possession of the original estate planning binder at the time of Debbra Winter's death. Ms. Lane turned over the binder to Respondent because she found his name in the estate documents, and could not locate Petitioner's name in the binder. Because Ms. Lane could not find Petitioner's name in the documents and didn't know who he was, she refused to turn the binder over to him. Respondent's attorney has spoken to Ms. Lane and anticipates that she will be a witness in this matter. Ms. Lane stated to Respondent's attorney that Petitioner admitted to her that he never even met Debbra Winter. This information supports the fact that the amendment was destroyed and not in the original estate planning binder.
9. In the absence of the original, there is a legal presumption that the document was revoked. Additionally, pursuant to Probate Code § 6120(b), we have an act of destruction consistent with the intent to revoke. This presumption cannot be overcome based on the Declaration of Morgan Quail and the expected testimony of Michele Lane.
10. Respondent, Christopher Lull, is the successor trustee of the Trust dated 07/16/94 and the primary beneficiary. He had every right to withdraw the money from Bank of America, as Trustee.

Objector prays for an Order:

3. Denying the Petition to Determine Title to and Require Transfer of Property to Trust Regarding Bank Account; and
4. Denying the Petition to Determine Title to and Require Transfer of Property to Trust.

Declaration of Morgan Quail in Support of Objection filed 08/07/13 states:

5. He is Debbra Winter's nephew and probably one of her closest family members. Debbra felt like a bit of an outsider in their family and felt left out. Declarant always tried to include her in his life events and she always seemed grateful to be included.
6. Their family has a lot of drama. Declarant states that he has tried to stay out of it and remain neutral. He believes that this is why Debbra confided in him and spoke to him about things she might not talk about with others.
7. Approximately 2 years ago on Father's Day, Debbra pulled Declarant aside and asked to talk to him. During their conversation, she removed a document titled amendment to trust from her purse and proceeded to tear it up in front of him. She stated that she wanted to keep her money in the family. Declarant also believes she was having conversations with her sister Catherine and father Stanton about this issue as well.
8. At Christmastime later that year, Declarant received a card from Debbra thanking him for the talk on Father's Day.

**Order to Show Cause Re: Failure to Appear; Imposition of Sanctions in the
Amount of \$500.00 as to Christopher Lull**

		<p>DENNIS FREEMAN filed a Petition for Order Appointing Temporary Trustee and Directing Delivery of Assets to Temporary Trustee on 8-23-13, along with a request for Order Shortening Time for notice on the petition.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Cont. from 091913, 102113 and 12/09/13</p> <p>Minute Order from 09/19/13 states: The Court notes that an Order to Show Cause was mailed to Christine James and Christopher Lull on 09/09/13 ordering them to be personally present today. The Court further notes that the hour is 9:30am and neither Mr. Pape nor the Court has been contacted by either of the two. As to both Christine James and Christopher Lull, the Court sets a further Order to Show Cause on 10/21/13 regarding their failure to appear and imposition of sanctions in the amount of \$1,000.00 each. Christine James and Christopher Lull are ordered to be personally present on 10/21/13.</p> <p>Minute Order 10-21-13: Stipulation and Order to use Certified Shorthand Reporter is signed by the Court. Ms. James is appearing via CourtCall. Mr. Shahbazian is appearing as counsel for Christopher Lull. Also present in the courtroom is Bruce Bickel. The Court notes for the minute order that the court reporter previously retained has been excused by Mr. Pape. Matter continued to 12/9/13. The Court orders all the parties including Christopher Lull and Dennis Freeman to be personally present on 12/9/13. Continued to: 12/9/13 at 09:00a.m. in Dept 303</p>
Cont. from 091913, 102113, 120913			
Aff.Sub.Wit.			
Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg			
Aff.Mail			
Aff.Pub.			
Sp.Ntc.		<p>The Court set the matter for hearing on 8-30-13 at 9:00, and ordered personal service by 8-26-13.</p> <p>Minute Order 8-30-13: The Court notes that the hour is 10:00 a.m. and Christine James is not present and nothing has been received from her. The Court further notes that notice has been provided to Christine James on an Order Shortening Time and there has been on-going communication between her and Mr. Pape. The Court grants the petition. If there is any difficulty, the Court will entertain an Order Shortening Time to assist the trustee in moving things along. The Court sets the matter for an Order to Show Cause regarding failure to appear and imposition of sanctions in the amount of \$800.00 as to Christine James and \$500.00 as to Christopher Lull. Christine James and Christopher Lull are ordered to be personally present on 9/19/13. Set on 9/19/13 at 9:00am in Dept. 303 for Order to Show Cause Re: Failure to Appear; Imposition of Sanctions in the Amount of \$800.00 as to Christine James and \$500.00 as to Christopher Lull. Petition is granted before Court Trial. Order signed.</p> <p>Orders to Show Cause were mailed to Attorney Christine James and Christopher Lull on 9-9-13 and on 09/30/13.</p>	
Pers.Serv.			
Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
Order			
Aff. Posting		<p>Reviewed by: JF</p> <p>Reviewed on: 01/02/14</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 6C – Winter</p>	
Status Rpt			
UCCJEA			
Citation			
FTB Notice			

6D Stephen & Debra Winter Revocable Trust**Case No. 13CEPR00564****Atty Pape, Jeffrey B.****Atty Lull, Christopher****Atty Shahbazian, Steven L.****Notice of Motion and Motion for Judgment on the Pleadings; Memorandum of Points and Authorities in Support Thereof; Declaration of Jeffrey B. Pape [CCP 438]**

Age:		NEEDS/PROBLEMS/COMMENTS: Examiner Notes are not prepared for this matter.	
DOD:			
Cont. from 120913			
<input type="checkbox"/> Aff.Sub.Wit.			
<input type="checkbox"/> Verified			
<input type="checkbox"/> Inventory			
<input type="checkbox"/> PTC			
<input type="checkbox"/> Not.Cred.			
<input type="checkbox"/> Notice of Hrg			
<input type="checkbox"/> Aff.Mail			
<input type="checkbox"/> Aff.Pub.			
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<input type="checkbox"/> Pers.Serv.			
<input type="checkbox"/> Conf. Screen			
<input type="checkbox"/> Letters			
<input type="checkbox"/> Duties/Supp			
<input type="checkbox"/> Objections			
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<input type="checkbox"/> CI Report			
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<input type="checkbox"/> Aff. Posting			
<input type="checkbox"/> Status Rpt			
<input type="checkbox"/> UCCJEA			
<input type="checkbox"/> Citation			
<input type="checkbox"/> FTB Notice			
		Reviewed by:	
		Reviewed on: 01/02/14	
		Updates:	
		Recommendation:	
		File 6D – Winter	

6D

**Petition to Determine Title to; Require Transfer to and Impose Constructive Trust
Over Property [Prob. C. 850(a)(2), (3), 855, 17200(b)(6)]**

Age:		<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Note: There are a total of eight (8) matters pending before the Court in this case:</p> <ul style="list-style-type: none"> • Pages A through C of this calendar have been continued to this date. • The Court has signed a Tentative Ruling on Page D of this calendar (Motion for Judgment on the Pleadings) that has been distributed to the parties as of 12-6-13. • This Petition (Page E) filed 10-21-13 by Dennis Freeman • Petition filed 11-26-13 by Dennis Freeman is set for hearing on 1-21-14. • A Petition filed 12-6-13 by Christopher Lull is set for hearing on 1-28-14. • A Motion filed 12/30/13 by Dennis Freeman is set for hearing on 01/28/14 <p>In light of the ongoing matters, Tentative Ruling, and upcoming matters, the Court may wish to continue this petition as well as the upcoming petitions to the same date to address or set for trial as appropriate.</p> <p>Therefore, this matter has not been reviewed by Examiner at this time.</p>
DOD:		
Cont. from 120913		
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
		<p>Reviewed by:</p> <p>Reviewed on: 01/02/14</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 6E – Winter</p>

Stephan DOD: 08/09/05		The following petitions have been filed or are pending in this matter:	NEEDS/PROBLEMS/COMMENTS:
Debra DOD: 05/13/13			
		<ol style="list-style-type: none"> 1. Petition to Determine Title To and Require Transfer of Property to Trust (Page 6A) 2. Petition to Determine Title To and Require Transfer of Property to Trust re Bank Account (Page 6B) 3. OSC Re Failure to Appear (Christopher Lull) (Page 6C) 4. Notice of Motion and Motion for Judgment on the Pleadings (Page 6D) 5. Petition to Determine Title To; Require Transfer To and Impose Constructive Trust Over Property (Page 6E) 6. NEW PETITION: Petition to Compel Christopher Lull to Redress Breach of Trust by Payment of Money or Otherwise and for Double Damages, set for 1-21-14 7. NEW PETITION: Petition to Determine Validity of Purported Trust, for Order Determining Interest in Trust Property and for Reformation, set for hearing 1-28-14. (filed by Respondent Christopher Lull) 8. NEW PETITION: Notice of Motion for an Order Compelling Responses to Special Interrogatories and Demand for Identification and Production of Documents, set for hearing 1-28-14. (filed by Petitioner Dennis Freeman) 9. NEW PETITION: Notice of Motion and Motion for Order Quashing Deposition Subpoena for Production of Business Records Issued to Placer Title Company, set for hearing on 02/24/14 (filed by Respondent Christopher Lull) 	<p><u>The Court may wish to continue all matters to meet up at 1-28-14 or 02/24/14 and set for trial together.</u></p>
Cont. from			
Aff.Sub.Wit.			
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Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
Order			
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice		<p>Joint Status Report filed 12/18/13 provides an outline/summary of the petitions filed in this matter.</p>	<p>Reviewed by: JF</p> <p>Reviewed on: 01/02/14</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 6F – Winter</p>